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[No. 7192-Reforms-UR-18/2010/HUD]

HOUSING & URBAN DEVELOPMENT DEPARTMENT

R E S O L U T I O N

The 22nd March 2010

Subject:— Devolution of Powers to Urban Local Bodies: Implementation of Mandatory Reforms under 74th Amendment of Constitution of India.

Ref:— Government in Housing & Urban Development Department Resolution No.25566-16/2006/HUD.,dated the 3rd November, 2006 published in extraordinary issue of the *Orissa Gazettee* on 18th November, 2006.

The decision of the State Government has been communicated to all concerned vide Housing & Urban Development Department Resolution No.25566-16/2006/HUD., dated the 3rd November, 2006 published in extraordinary issue of the *Orissa Gazettee* on 18th November, 2006 to adopt certain mandatory/ optional reforms. Serial No.5 of the Mandatory Reforms relates to devolution of powers in respect of Water Supply for domestic, industrial and commercial purposes to be achieved during 2009-2010. Section 196 of The Orissa Municipal Act, 1950, vests the responsibility of providing water supply with the Municipality. However, Section 197 (2) of the same Act says that the State Government may, by notification, limit or define such control, or may assume the administration of any public source of water supply and public land, adjacent and appertaining thereto, after consulting the municipality and giving due regard to its objections, if any. Similarly, Chapter IV, Section 24 of the Orissa Municipal Corporation Act, 2003 provides that the obligatory duties of the Corporation include collection, removal, treatment and disposal of solid wastes, sewage, offensive matter and rubbish; construction, maintenance and cleaning of drains and drainage works and of public latrines, water closets, urinals and similar public conveniences; and management and

maintenance of all Corporation water works and the construction or acquisition of new works necessary for sufficient supply of water for public and private purposes.

In accordance with the aforesaid provisions, the following scheme of devolution of powers to the Urban Local Bodies is made for implementation by all concerned from the date of issue of this resolution.

- (1) Public Health Engineering Organisation (PHEO) shall be accountable to the ULBs in respect of preparation of plans, programmes, and implementation including delivery of services in drinking water supply and sewerage sector.
- (2) PHEO in consultation with the ULB, shall agree upon service standards on performance indicators as set out in the MoA. These shall be reviewed and targets agreed upon on an annual basis.
- (3) All plans and programmes prepared by PHEO shall be presented before the Municipal Council for their approval to be achieved within a period not exceeding 30 (thirty) working days or it shall be considered as "Deemed Approval".
- (4) The suggestions/recommendations of the ULB on implementation of different schemes and programmes will be considered by PHEO and appropriate action to be taken.
- (5) The Urban Local Body shall be responsible to ensure rational, equitable and sustainable distribution of services in all areas like partially covered, uncovered and fully covered areas including services to urban poor and shall act in a demand responsive manner to address the gaps with the support of Public Health Engineering Organisation (PHEO).
- (6) The PHEO shall be responsible for recording and reporting information on attaining agreed standard benchmarking performance indicators like Rate of Supply , Duration of Supply, Quality , Pressure , Complaint redressal, New water supply/sewerage connections, Revenue collection. The frequency of reporting shall be as per frequency stipulated in the MoA (Secn VII).
- (7) The ULB shall be responsible for reviewing and confirming the performance reported by PHEO, either by themselves or by appointing a third party as desired/required. The performance data reported by the PHEO and ratified by the ULB shall be submitted to Government along with the budget proposals for the year.

- (8) While making suggestion/recommendations in respect of schemes/programmes /projects, the ULB authorities would take into consideration the rules/norms/guidelines of Government of India/State Government in this regard.
- (9) There shall be periodic reviews at the level of the ULB on implementation of schemes and projects including service provision. The Executive Engineer concerned or his representative will attend the review meeting.
- (10) In case of any disagreement between the service provider (PHEO) and the ULB, the same shall be referred to the District Collector concerned (except for three corporations), who shall act as the Appellate Authority and whose decision shall be final. In case of Corporation, Director, Municipal Administration shall act as the Appellate Authority.
- (11) Operationalisation of the devolution of powers shall be implemented through a tripartite agreement (Memorandum of Agreement-MoA) between the ULB (Commissioner/Executive Officer), PHEO (Executive Engineer concerned) and Director Municipal Administration on behalf of Housing and Urban Development Department.
- (12) There shall be review and monitoring mechanism at the level of ULB, District Collector, PHEO and Housing and Urban Development Department as provided in the MoA.

Way forward:

The State Government has accorded in-principle approval for creation of the Orissa Water Corporation for piloting in Bhubaneswar city. Detailed institutional design, business plan and operational structure for the Water Corporation along with required enabling legislative provisions including amendments in the Municipal Corporation Act 2003/Municipal Act, 1950 would be worked out and placed before the State Cabinet for approval. Based on lessons learnt from the pilot, the area of operation of the Water Corporation can be expanded to provide water and sewerage services to the cities of Cuttack and Puri through a contractual arrangement between the Water Corporation and the respective Municipal Authorities. Later on, this institutional model can be expanded/replicated to include other ULBs.

ORDER

Ordered that the Resolution be published in the *Orissa Gazettee* and copies of the same forwarded to all Departments of Government /all Heads of Department/Accountant General, Orissa/Deputy Accountant General, Orissa/all Revenue Divisional Commissioners/ Chief Engineer, Public Health (urban), Orissa, Bhubaneswar/ Chief Engineer, Rural Water Supply and Sanitation, Orissa/All District Magistrates/ Director Municipal Administration and *Ex-officio* Additional Secretary to Government, Housing and Urban Development Department/ all Superintending Engineers, Public Health/ all Superintending Engineers, Rural Water Supply and Sanitation / all Executive Engineers, Public Health Divisions/ all Executive Engineers of Rural Water Supply and Sanitation Divisions/ all Municipal Commissioners of Municipal Corporations/ all Executive Officers of Municipalities and Notified Area Councils

By order of the Governor

A. K. PANDA
Principal Secretary to Government